

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NO. 05-40025-FDS

UNITED STATES OF AMERICA

v.

MATTHEW MARSH

**ASSENTED MOTION TO CONTINUE SENTENCING AND DEFENDANT'S
OBJECTIONS TO THE PRESENTENCE REPORT**

The Defendant, Matthew Marsh in the above-entitled matter respectfully requests that the sentencing hearing currently scheduled for February 8, 2007 be continued for forty-five days. The Defendant is also requesting an extension for filing his objection to the presentence report. The reasons for this motion are as follows:

1. Attorney for the Defendant is scheduled to be in a trial in the Chicopee District Court in the case of *Michel Bernatchez v. Nino Santino* et al on February 8, 2007.
2. This trial is scheduled to begin on February 5, 2007 and will be a trial.
3. Attorney for the Defendant informed Martin Castles of this scheduling conflict in December 2006 and was advised by Mr. Castles to inform the court on the status of the trial as the sentencing date for Mr. Marsh got closer in light of the fact that cases are often disposed of prior to trial.
4. This case will not be settled and will proceed to trial on February 5, 2007.
5. Further and additional compelling reason has surfaced to continue this case.
6. Upon receipt of the Probation department presentence report defense counsel first became aware of two prior state court misdemeanor convictions for resisting arrest that will be used to invoke the provisions of the career offender guidelines.
7. This increases the guideline range from approximately eight (8) years to twenty-two (22) years.
8. This will not change the mandatory minimum that the defendant is facing, which is ten (10) years.

9. Due to the newly discovered potential severity of this sentence defense counsel needs more preparation time prior to sentencing.
10. Defense counsel also needs to investigate the state convictions and possibly move to vacate these convictions.
11. It is also clear from the presentence report that the defendant is suffering from mental disease and has been diagnosed as being bipolar therefore the defendant needs to be examined by a psychologist for purposes of sentencing to determine the severity of his documented mental illnesses and the implication towards sentencing.

Assistant United States Attorney Lisa Asiaf has assented to this motion.

/s/ Alan J. Black
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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the Assistant United States Attorney, Lisa Asiaf on this 18th day of January 2007.

/s/ Alan J. Black